

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
MONDAY, SEPTEMBER 25, 2006 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

OTHER LEGISLATIVE MEETINGS

A Special Meeting of the **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at (619) 533-5432. Internet access to the agenda is available at:
<http://www.sandiego.gov/redevelopment-agency/index.shtml>

ITEM-1: ROLL CALL.

ITEM-10: INVOCATION.

ITEM-20: PLEDGE OF ALLEGIANCE.

NON-AGENDA PUBLIC COMMENT

Non-agenda public comment is taken on Tuesday pursuant to the San Diego Municipal Code Section 22.0101.5.

**MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY
COMMENT**

UPDATES ON PENDING LEGISLATION (MAYOR’S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE ===

Adoption Agenda, Discussion, Other Legislative Items

ITEM-200: Step VI Grievance from Police Officers Association Regarding Annual Leave Cap.

STAFF'S RECOMMENDATION: Take the actions.

ITEM-201: Amendment to San Diego Medical Services Enterprise (SDMSE) Contract Regarding Profit Distributions.

STAFF'S RECOMMENDATION: Adopt the resolution.

Noticed Hearings, Discussion

ITEM-202: Armstrong Residence. (La Jolla Community Plan Area. District 1.)

Matter of the appeal by the La Jolla Community Planning Association of the environmental determination associated with a Coastal Development Permit application for the construction of a two-story, 2,883 square-foot single family residence, with an attached 483 square foot, two-car garage on an existing vacant 7,812 square foot lot, located at 5746 La Jolla Mesa Drive in the RS-1-5, Coastal Overlay (non-appealable), and Coastal Height Limit Overlay Zones within the La Jolla Community Plan Area.

STAFF'S RECOMMENDATION: Take the actions.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. Public testimony on Closed Session items is taken in Open Session on Monday's, except when there is no Monday meeting. Public testimony on Closed Session items is always taken prior to the actual Closed Session. Closed Session may take place any time after public testimony, but is typically held on Tuesdays at 9:00 a.m. The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

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Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session 4) Refer matters discussed to closed session.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

ITEM-200: Step VI Grievance from Police Officers Association Regarding Annual Leave Cap.

(See Report to the City Council No. 06-122.)

(Continued from the meeting of September 11, 2006, Item 200, at the request of Councilmember Madaffer, to allow City Attorney to provide a legal opinion regarding this item.)

STAFF'S RECOMMENDATION:

Take the following actions:

Hear the grievance and determine the outcome;

Directing the City Attorney to prepare the appropriate resolutions in accordance with Charter Section 40.

Staff: Scott Chadwick - (619) 236-6313

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-201: Amendment to San Diego Medical Services Enterprise (SDMSE) Contract Regarding Profit Distributions.

(See Report to the City Council No. 06-131.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-258 Cor. Copy)

Approving the recommendation of Staff regarding the amendment to the Operating Agreement;

Authorizing the Mayor, for and on behalf of the City of San Diego, to amend the Operating Agreement to change the profit distribution of SDMSE.

Staff: Jill Olen - (619) 236-7169
Brant C. Will - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-202: Armstrong Residence.

Matter of the appeal by the La Jolla Community Planning Association of the environmental determination associated with a Coastal Development Permit application for the construction of a two-story, 2,883 square-foot single family residence, with an attached 483 square foot, two-car garage on an existing vacant 7,812 square foot lot, located at 5746 La Jolla Mesa Drive in the RS-1-5, Coastal Overlay (non-appealable), and Coastal Height Limit Overlay Zones within the La Jolla Community Plan Area.

(La Jolla Community Plan Area. District 1.)

(Continued from the meeting of August 1, 2006, Item 331 and September 18, 2006, Item 201, last continued at the request of Councilmember Hueso for further review.)

NOTE: Hearing open. No public testimony taken on August 1, 2006. Hearing open. No public testimony taken on September 18, 2006.

STAFF'S RECOMMENDATION:

Take the following actions:

Denying the appeal and Certifying Negative Declaration No. 3511.

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on March 16, 2006, voted 5-0 to deny; was opposition.

Ayes: Schultz, Garcia, Griswold, Ontai, Otsuji

Abstaining: Chase, Steele

The La Jolla Community Planning Association has recommended denial of this project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-202: (Continued)

STAFF SUPPORTING INFORMATION:

On March 16, 2006, Planning Commission denied an appeal of the CDP and approved the project with a vote of 5-0. On March 29, 2006, the La Jolla Community Planning Association appealed the Negative Declaration. Certification of Negative Declaration No. 3511 would complete the process for the project since the Planning Commission's action on March 16, 2006 has approved the Coastal Development Permit. The City Council could choose to not certify the Negative Declaration and request that the City prepare a Mitigated Negative Declaration or Environmental Impact Report. The City Council is acting on the environmental determination only and not on the Coastal Development Permit.

PREVIOUS COMMITTEE ACTION

Planning Commission Decision: On March 16, 2006, the Planning Commission voted 5-0 to deny the appeal of the project and approve the Coastal Development Permit.

Basis for Appeal: The environmental concerns listed by the appellant include aesthetics/neighborhood character, biology, geology/soils and land use as outlined within the Initial Study Checklist of the Negative Declaration.

Staff Response:

Aesthetics/Neighborhood Character: The project design will have a one-story appearance from the street, with the house stepping down the site similar in design to surrounding residences and would not impact the existing pine trees adjacent to the proposed residence. Proposed grading would consist of approximately 535 cubic yards of cut. The amount of grading proposed is below the threshold of CEQA significance. A Notice of Geotechnical Conditions was recorded on the land to hold the city harmless from potential damages resulting from the existing slope instability (Attachment 1). The geotechnical consultant has opined that the site can be built in a geologically safe and stable manner. The site does have a grade differential in excess of 25% gradient and therefore was evaluated under the Environmentally Sensitive Lands, Steep Hillside Regulations (Attachment 2). The definitions within the Municipal Code state that Steep Hillside means all lands that have a slope with a natural gradient of 25 percent or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent or greater and a minimum elevation differential of 10 feet (Attachment 3). Based on the soils reported submitted, it was determined that the entire site had been previously disturbed and therefore not subject to the Steep Hillside Regulations.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-202: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Biology: The biological survey report prepared for the proposed project indicated that none of the existing trees on the project site contained nests. Therefore, no impacts to nesting birds are anticipated due to the removal of existing on-site trees. The project proposes to retain six existing king palms and two existing eucalyptus trees.

Geology/Soils: The geotechnical consultant has opined that the site can be built in a geologically safe and stable manner. Condition No. 13 was revised at the Planning Commission hearing to require additional geotechnical review during the review of the grading plan including analysis of the impact of the project on slope stability and the adjoining properties. The geotechnical consultant has opined that the existing slope has a factor of safety less than 1.5. A Notice of Geotechnical Conditions was recorded on the land to hold the City harmless from potential damages resulting from the existing slope instability (Attachment 1). However, once the proposed project is constructed, the site would have a factor of greater than 1.5 as stated by the geotechnical consultant within the reports submitted to staff for review. There is additional review required during the review of the grading/building plans for the proposed residence. This additional review will ensure that the proposed residence will not impact adjacent properties and that the site will have a factor of safety greater than 1.5.

Land Use: The 2004 La Jolla Community Plan and Local Coastal Program Land Use Plan states (page 51) that the City shall apply the Environmentally Sensitive Lands regulations to all new development on property in La Jolla having slopes with a natural gradient of 25 percent or greater and a minimum differential of 50 feet. Based on the soils reported submitted and reviewed by staff, it was determined that the entire site had been previously disturbed and therefore not subject to the Steep Hillside Regulations.

FISCAL CONSIDERATIONS:

There is no fiscal impact. The project includes a deposit account paid for by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 3, 2005, the La Jolla Community Planning Association voted 12-0-0 to recommend denial of the project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-202: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

KEY STAKEHOLDERS:

David Ferradino, Owner (Attachment 4), Thomas Armstrong Construction Inc.,
Owner/Applicant and La Jolla Community Planning Association – Phil Merten, Appellant.

Halbert/Waring/LCB

LEGAL DESCRIPTION:

The proposed project is located at 5746 La Jolla Mesa Drive, between Baja Mar and Skylark Drive, within the Coastal Zone and the La Jolla Community Planning Area and is more particularly described as Parcel 1, Parcel Map 3254.

Staff: Laura Black – (619) 446-5112

NOTE: This item is not subject to Mayor's veto.

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NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT